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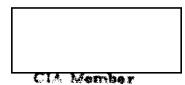
MEMORANDUM FOR: Mr. William H. Rehaquist Chairman, Security Review Committee

SUBJECT

: Safeguardiag Official information in the Interests of the Defense of the United States Executive Order 19501 as amended)

- l. Pursuant to your request, we have reviewed the Atomic Energy Commission (AEC) paper captioned "Actions to Patently Indicate Objective of Preventing Excussive Classification" and submit the following commonts.
- 2. From a legal point of view we believe that the revisions proposed by our Office of General Counsel as set forth in our memorandum dated 20 August 1971 in reply to your 5 August 1971 paper) would meet many of the AEC's basic objectives. Furthermore, by the gradation of offenses there is eliminated one of their concerns that sanctions for misuse of confidential information presently come under the Espionage Laws. In the proposed revision this is no longer the case. There are specific sections dealing with mishandling of information which are separate from the sections dealing with espionage.
- 3. In addition to the legal aspects of one of the AEC propossis, it is our view that the elimination of CONFIDENTIAL as a defense and foreign relations classification would degrade the SECRET category in that an original classifier would be faced, is many cases, with either not classifying a document or placing it is the SECREY category. In most cases, we feel he would classify it SECRET thus devaluating the concept of SECRET which should be maintained. Mereover, there would always be a risk that some data which should be protected might aut be with a deleterious effect on our national defense and/or foreign relations interests.

4. AEC's other proposal to recast the CONFIDENTIAL level of classification from "the unauthorized disclosure of which could be prejudicial to the national security interests of the nation" to "the enauthorized disclosure of which would normally be expected to cause serious harm to the national defease of the U. S. or its conduct of foreign relations, " seems to us to draw too fine a line between CONFIDENTIAL and SECRET. Siace "grave" and "serious" are synonymous the only difference between SECRET and CONFIDENTIAL in the AEC proposal is as fellows: In the SECRET category the unauthorized disclosure "would cause grave barm to the nation" while in the CONFIDENTIAL category unsutherized disclosure "would normally be expected to cause serious harm to the nation." The degree of harm would be identical is both. We believe that most classifiers would have difficulty making a judgment between SECRET and CONFIDENCIAL under this proposal. Moreover it has been suggested that penelties and sanctions for the unauthorized disclosure of CONFIDENTIAL data be relatively light as compared to those for TOP STORET and SECRET. Under the AEC proposal, although the degree of damage to the national interest would be about the same if CONFIDENTIAL or SECRET information were improperly disclosed, the sauctions levied would vary widely depending upon the classification of the decument and not upon the degree of damage to the mation.



STAT

ce: Mr. Heward C. Brown, Jr. - AEC Mr. Jeseph J. Liebling - Defense Mr. William D. Blair, Jr. - State Mr. Thomas E. Latimer - NSC

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SUBTECT: Safeguarding Official Information in the Interests of the Defense of the United States Executive Order 10501, as amended)

CONCURRENCES:

Lawrence R. Houston

2 0 AUG 1971

Date

General Counsel

SIGNED

2 0 AUG 1971

John W. Coffey Deputy Director for Support

Date

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